Understanding International Law Through Postinternational Theory and Heterarchy

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International law as a discipline and practice has a long evolution that has shaped its comprehension and usefulness today. This analysis examines the notion of international law through the theories of postinternationalism and heterarchy. The idea lies in understanding the paradigm shifts in world politics and how they have affected international law globally. This study explores the relevance of explaining events of international law through the theories of postinternationalism and heterarchy. With how complex and interactive world politics has become in the contemporary world, it has become challenging to always explain the IR phenomenon through the prominent international relations theories (realism, liberalism, postcolonialism, and constructivism) due to the complex nature of world politics in numerous respects. Thus, the two theories explored in this study present a nuanced and fresh perspective toward unbundling recent subjects of international law and its practice. The piece focuses on two international law cases: the South African International Court of Justice case against Israel and the USA International Criminal Court case against Russia.

International Law

Law, commonly, is an element that binds members of a community together through recognized principles and standards. It is also permissive in allowing individuals to establish legal relations with rights and duties. Two theoretical perspectives have been employed frequently to discredit the significance and credibility of international law. These refer to positivism and the normative theory.

International law can be defined as a body of rules established by custom or a treaty and recognized by states as binding in their relations with other states. The evolution of international law has contended to many facets of its nature in theory and practice. The idea advanced in this analysis reclines in the argument that international law in the contemporary world or its current form today can be better comprehended by the theories of postinternational theory and the rise of heterarchy. This is not to disregard the classic international relations theories in international law; rather, the idea lies in drawing on a more nuanced approach of engaging and unbundling the multifactored nature of the discipline, both in theory and practice.

The definition of international law is clear and easy to understand; however, its empirical evidence and research have demonstrated how its nature and practice intersect across numerous dynamics. Thus, its practice and apprehension prove to be challenging continuously. The challenge can be surmised to stem from its intricate connection to global politics and the anarchist world in which it exists. Through its evolution, international law has been defined in numerous nuances; different schools of thought and scholars have contended and advanced what international law means, with some arguing that international law is a valid law that exists and is progressive through a normative system, thus, international law is derived from norms that are embedded within societies. On the other hand, the positive school of thought contends that the advancement of international law progresses over the empirical evidence gathered from existing cases, which then posits and informs the guiding principles of international law.

Given the rise of non-state actors and international institutions and their role in shaping world politics, it is essential to gauge their significance. This piece grants the opportunity to assess the changing dynamics of international law

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aided by the theories of postinternationalism and heterarchy. Additionally, there needs to be more literature on how postinternational theory and heterarchy elucidate the discipline of international law. Thus, this piece aims to capture a nuanced facet of international law while contributing to an underexplored research niche.

Postinternational Theory and Heterarchy

The theory of postinternationalism was coined by James N. Rosenau; it argues that unlike classic IR theories, which centralize the role of the state in global politics, postinternational theory argues that global politics are more than often shaped by the role of non-state actors, international norms, the existence of conflict and wars globally as well as the processes of globalization. This approach offers an alternative paradigm for understanding global politics. As world politics advances and through globalization, new actors and phenomena emerge that shape world politics. In this regard, heterarchy is inevitable. Heterarchy can be defined as the 'coexistence and conflict between differently structured micro and meso-quasi-hierarchies that compete and overlap not only across borders but also across economic-financial sectors and social groupings, leading to a process of restructuration that empowers strategically situated agents in multinodal competing institutions with overlapping jurisdictions.' In this multinodal system, there is a confluence of numerous competing hierarchies through their respectful hegemons; herein, several hegemonic hierarchies and governing principles exist in one standard anarchist system. This system gives rise to a multinodal system that can decipher the complex web of global politics. Due to the multinodal nature of multiple actors and phenomena within the international system. Deciphering these subjects on IR through a single IR paradigm has become a complex task. Thus, the postinternational theory and heterarchy grant the opportunity to cut across the complex nature of world politics without focusing on one paradigm or entity as the single point of analysis.

Furthermore, we are drawn to the idea of anarchy in world politics, which can be referred to as the absence of a world government or international disorder. Due to the lack of a joint government in the international arena, the conflicting behaviour of states is often characterized by anarchy. As states seek to advance their national interests on the global stage, these advancements can present geopolitical risks to other actors in the worldwide field. What we would refer to as the beggar-thy-neighbour effect in numerous respects. In this analysis, we decipher the latter from a foreign policy angle.

Gaza, Ukraine, and South Africa's Role in the International Criminal Court

The war that broke out in February 2021 between Russia and Ukraine was felt globally due to the irreversible impact it presented, from food insecurity to geopolitical shocks. To guarantee the de–escalation of hostilities and control the increased food insecurity brought on by the conflict, the United Nations (UN) and the rest of the world were forced to deploy peaceful settlement methods as soon as the war broke out in Russia. The United Nations was crafting a comprehensive resolution grounded in the organization's charter when it approved a vote supporting Russia's invasion. Sponsored by 96 states, the vote had 141 in favour, five against, and 35 abstentions. However, these unwavering attempts failed to lessen the intensity of the conflict or avoid its effects on certain states. The UN Security stance on this has been filled with politics, with some states being forced to choose a side preferred by the USA.

The Russia-Ukraine war stance that South Africa was coerced to take in recent months elucidates numerous cases of power politics and South Africa's position in the international arena. The coercive means by the US to force South Africa to take a stance involving the International Criminal Court warrant of arrest issued to South Africa ahead of the BRICS summit and the military drills in December 2022 in SA. These events have demonstrated the global divide and exposed how international institutions can be used to achieve the goals of selected states. Nonetheless, this divide continues to reveal the global rivalry between superpowers and allies that may fall through these rivalries' cracks.

The Israel-Palestine war has gained traction since it broke out on 7 October 2023. The warring parties have been at war for many decades, but the hostilities renewed last year October between Israeli troops and Hamas. The war resulted in criticism worldwide against Israel to the point of the war being termed genocide against Palestine. The reactions to this war also involved international law, where South Africa filed a case against Israel at the International Court of Justice. This led to the application of the Convention on the Prevention and Punishment of the Crime of

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Genocide in the Gaza Strip. However, South Africa's effort to use international law against Israel was highly criticized by the USA, along with other Western states. The US secretary of state, Antony Blinken, stated that "The U.S. believes South Africa's genocide submission against Israel distracts the world from important efforts for peace and security."

These two wars can aid our understanding of how global politics can be shaped by numerous factors that establish a contemporary pattern of behaviour. This analysis employs two theories to infer how these factors shape world politics. The theory of heterarchy is evident in how the USA used international law to further its interests and issue a warrant of arrest to Russia and have South Africa execute it. This left South Africa in a controversial position, heavily criticized for its non-alignment stance on the Russia-Ukraine war. In the Israel-Palestine case, however, South Africa was at the forefront of critical players who advocated for the end of the war against Palestine. At this point, South Africa used the ICJ to arrest Israel and charge them for genocide. Following this case, the USA was heavily criticized for vetoing the UN Security Council resolution against Israel.

In this current comparative analysis, we can capture a thematic pattern between these two cases of war and international law involving different actors. Postinternationalism protrudes how non-state actors, conflict and wars, and globalization shape contemporary global politics. The two wars presented in this case illustrate how a state's agenda and foreign policy tend to be shaped by geopolitical events. South Africa and the USA found themselves in really stringent situations concerning war, where each state was seen as a passive bystander or a hero in the wars and how they chose to respond to them. It is worth remembering that states are always likely to make decisions that align with their national interests at domestic or international levels. States are always compelled to make realist decisions. However, with the complex environment of world politics continuously configured by many factors, it is less likely that states and their sovereignty can always shape outcomes to their satisfaction. Instead, due to anarchical international relations, a state has enough power to affect global politics through its foreign policy. Or world political events are powerful enough to shape the state's domestic politics. The two wars demonstrated that no country can be exempted from this synchronized pattern.

On the other hand, heterarchy has demonstrated how a multi-nodal world in which multiple hegemonies co-exist in their respects tends to conflict in an anarchist world. As such, we have witnessed two hegemonies in their contexts conflicting at a global level, while the USA used international law to further its national interest and force South Africa to take a clear stance on the Russia-Ukraine case. South Africa also used international law to challenge the Western hegemonic system of Western states, where they filed a case against an ally of the USA (Israel) to the ICJ, which put the USA in a highly controversial position.

The above scenario paints a volatile picture of the international arena and its politics. Using tenets of postinternational theory and heterarchy, we can decipher the following. Global institutions are emerging as prominent actors that play a prominent role in shaping world politics. More so, war and conflict have become shapers of world politics by painting certain actors as heroes, bystanders, or instigators of war. The two recent conflicts reviewed in this analysis demonstrated how war can shape a sovereign state's international law or foreign policy. This refers to how the USA and South Africa used international law to advance their foreign policy. Still, at the same time, these wars also coerced both states to reconsider their foreign policy stance on the global stage. These interconnected synchronized events can all be traced back to the rise and significance of globalization, another aspect of postinternational theory that plays a more significant role in configuring world politics.

Overall, upon deciphering all these aspects in a standard political system, it can be argued that international relations are shaped by numerous factors that can either conflict or complement each other. All the mentioned factors have a profound role in shaping the global landscape as we know it; therefore, it can be asserted that facets of world politics and international law can never stagnate. The international landscape is continuously changing to accommodate the growing relevance of each of these critical factors that shape its discourse. As such, I argue that no sovereign state is powerful enough not to be affected by the postinternational effect of world politics, but at the same time, international law is not superior enough to not be overridden by the discourse of state sovereignty. Therefore, all these actors become subjects of an anarchist world setting in which the absence of a central government enables every actor or factor to shape international discourse in the political system.

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